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In re Application of :
ROMMENS *et al* :
U.S. Application No.: 10/561,785 :
PCT No.: Unknown :
Int. Filing Date: 25 June 2004 :
Priority Date: :
Attorney Docket No.: 058951-0238 :
For: PRECISE BREEDING :

DECISION

This decision is in response to the petition filed 30 June 2008.

BACKGROUND

On 21 December 2005, applicants filed a national stage application listing the international application number on the transmittal letter (Form PTO-1390) as PCT/2004/017424 with a priority date of "2/20/2002.

On 28 April 2008, a communication was mailed informing applicants that the PCT number on the transmittal letter and the priority date was invalid. Applicants were requested applicants to clarify the correct international application number and priority number and show how the papers filed 21 December 2005 were intended as the national stage of that international application.

On 30 June 2008, applicants filed the subject petition.

DISCUSSION

Applicants petition to "request rectification of an incorrect International Application Priority Date inadvertently provided by Applicants upon entry into the U.S. National Phase on December 21, 2005." This request is treated as a petition under 37 CFR 1.182. The \$400.00 petition fee has been charged to Deposit Account No. 19-0741 as authorized.

The Communication mailed 28 April 2008 noted that:

The **PCT number listed on the transmittal letter** (Form PTO-1390) and the priority date filed 21 December 2005 are invalid. The transmittal letter indicates that the PCT number is PCT/2004/017424. The priority date

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claimed is "2/20/2002" which is more than one year from the international filing date listed ("6/25/2004"). Applicants filed a second submission on 08 January 2007 which also lists an invalid PCT number and priority date on the transmittal letter.

Applicants must clarify the correct international application number and priority number and show how the papers filed 21 December 2005 were intended as the national stage of that international application. (Emphasis added).

In the petition filed 30 June 2008, applicants explain that the "inadvertently provided the International Application Priority Date as February 20, 2002 when the correct International Application Priority Date should have been provided is "June 27, 2003." However, applicants failed to address the problem of the invalid PCT number and have not demonstrated how the original papers filed 21 December 2005 were intended as the national stage of that international application.

Moreover, the transmittal letter accompanying the petition also recorded the international application as PCT/2004/017424. **This is not a valid international application number.**

For a grantable petition, applicants must respond to all of the problems outlined in the Communication mailed 28 April 2006.

CONCLUSION

For the reason discussed above, applicants' petition under 37 CFR 1.182 is **DISMISSED** without prejudice.

A proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). **Failure to timely respond will result in the abandonment of the application.**

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.



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